UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,850	02/14/2001	Steven Mark Gebert	8185P010	9299

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InfoPrint Solutions/ Blakely
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

EXAMINER
CAMPBELL, JOSHUA D

ART UNIT	PAPER NUMBER
2178	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action *Before the Filing of an Appeal Brief*	Application No. 09/782,850	Applicant(s) GEBERT ET AL.	
	Examiner JOSHUA D. CAMPBELL	Art Unit 2178	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>12 March 2009</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

 a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

 (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

 (b)☐ They raise the issue of new matter (see NOTE below);

 (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

 (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

 NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): <u>See Continuation Sheet</u>.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

 The status of the claim(s) is (or will be) as follows:

 Claim(s) allowed: _____.

 Claim(s) objected to: _____.

 Claim(s) rejected: <u>49-87</u>.

 Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Joshua D Campbell/
Primary Examiner, Art Unit 2178

Continuation of 5. Applicant's reply has overcome the following rejection(s): The rejection of claims 75-87 under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter..

Continuation of 11. does NOT place the application in condition for allowance because: Regarding applicant's arguments on page 13-14, in reference to the rejection on the grounds of Res Judicata, the examiner respectfully disagrees and the rejection has been maintained. The applicant states that the Board of Patent Appeals and Interferences (hereinafter BPAI) ruled that a page object has previously claimed contained the content and formatting properties for "one or more pages," and thus changing the claim limitation to clarify that a page object contains the content and formatting for "only" one page object. However, this does not distinguish the current claims from the previously adjudicated claims. The phrase "one or more" is not patentably distinct from the phrase "only one" based solely on the literal meanings of the two phrases. The phrase "one or more" provides the limitation of having at least one of the specific criteria and does not require the existence of any more than that one, thus having "only one" would fall into the definition of the phrase "one or more" which is the reason that the slight change in the language of the claim limitation does not distinguish the current claims from the previously appealed claims. Regarding applicant's arguments on pages 14-16, in reference to a page object having the content and formatting for only one page, the examiner maintains that Adler discloses the limitations it was previously and is currently worded, thus the rejection has been maintained. Adler discloses that a result tree is generated by processing the XSL document (layout data structure) and the source tree (source content) (page 18, Final Paragraph and Figure of Adler). Adler explicitly discloses that the result tree consists of objects in the "formatting object" namespace (page 18, Final Paragraph). Adler teaches that, "Formatting semantics are expressed in terms of a catalog of classes of formatting objects. The nodes of the result tree are formatting objects. The classes of formatting objects denote typographic abstractions such as page, paragraph, table, and so forth," (page 18, first paragraph, lines 1-4 of Adler). Adler also teaches that the formatting objects are represented as XML elements with the properties and attributes of the XML value pairs and the content of the original XML element (i.e. original source content) (page 18, Final Paragraph of Adler). This process is more clearly explained using the figure on Page 19, which shows the source tree (original XML content) is transformed using XSL stylesheet, which represents the formatting information for the XML content. This process creates the result tree which has formatting objects for nodes which included the original XML content and formatting information necessary to properly display the content. In other words, the result of processing the source content and the layout data structure is a result tree. This result tree consists of formatting objects which correspond to typographic abstractions such as pages, also known as "page objects," if the document being processed consisted of more than one page of data the result tree would be required to have multiple page objects. These objects are stand-alone abstractions which contain both the formatting and the content necessary for each typographic abstraction, once again in this case that would be only one page..